

AGENDA ITEM #5
July 31, 2012

Introduction

MEMORANDUM

July 27, 2012

TO: County Council

FROM: Amanda Mihill, Legislative Attorney

SUBJECT: **Introduction:** Bill 23-12, Administration – Open Government

Bill 23-12, Administration – Open Government, sponsored by Councilmembers Riemer and Andrews, Council President Berliner and Councilmembers Leventhal and Floreen, is scheduled to be introduced on July 31, 2012. A public hearing is tentatively scheduled for September 18 at 1:30 p.m.

This Bill would require an agency to make a public data set available on the Internet within 1 year of the effective date of this Bill. The public data set that an agency makes available must be accessible through a single web portal that is linked to www.montgomerycountymd.gov or any successor website maintained by, or on behalf of the County.

This packet contains:
Bill 23-12

Circle #
1

Bill No. 23-12
Concerning: Administration - Open
Government
Revised: 7/27/2012 Draft No. 4
Introduced: July 31, 2012
Expires: January 31, 2014
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Riemer and Andrews, Council President Berliner and Councilmembers
Leventhal and Floreen

AN ACT to:

- (1) require the County to make certain public data sets available on a single web portal on the internet;
- (2) require the Department of Technology Services to develop a technical standards manual for publishing public data sets;
- (3) require the County to develop a Compliance Plan;
- (4) require the County to include on the single web portal, a website that includes certain information on requests submitted to the County under the Maryland Public Information Act and the County's response to that request;
- (5) require the Chief Administrative Officer to report to the Council on the Executive Branch's compliance with the Maryland Public Information Act; and
- (6) generally amend County law regarding administration.

By adding

Montgomery County Code
Chapter 2, Administration
Article XIV, Open Government
Sections 2-152, 2-153, 2-154, 2-155, 2-156, 2-157, and 2-158

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

- 28 (b) issuing a permit;
 29 (c) registration, certification and licensing; and
 30 (d) liability for civil and criminal penalties.

31 Maryland Public Information Act or Act means the Maryland Public
 32 Information Act, codified at Sections 10-611 through 10-630 of the State
 33 Government Article of the Maryland Code.

34 Measurement means to quantify any characteristic of an observable event,
 35 occurrence, or object by comparison to a reference standard.

36 Open standard means a technical standard developed and maintained by a
 37 voluntary consensus standards body that is available to the public without
 38 royalty or fee.

39 Public data set means a comprehensive collection of interrelated data that is
 40 available for inspection by the public under any provision of law and is
 41 maintained on a computer system by, or on behalf of, an agency. Public
 42 data set does not include any portion of a data set that is not subject to
 43 disclosure under any Federal or State law, including the Maryland Public
 44 Information Act.

45 Technical standard means:

- 46 (a) the common and repeated use of a rule, condition, guideline, or
 47 characteristic for any product or related process and production
 48 method, and related management systems practice; and
 49 (b) (1) the definition of a term;
 50 (2) classification of a component;
 51 (3) delineation of a procedure;
 52 (4) specification of dimension, material, performance,
 53 design, or operation;

- 54 (5) measurement of quality and quantity in describing any
 55 material, process, product, system, service, or practice;
 56 (6) test method and sampling procedure; or
 57 (7) description of fit and measurement of size or strength.

58 *Transaction* means any interaction between an agency and any person
 59 related to the mission of an agency.

60 *Voluntary consensus standards body* means a domestic or international
 61 organization that develops and maintains a technical standard that uses a
 62 transparent deliberative process, permits the participation of any party, and
 63 achieves general consensus, although not necessarily unanimity, of the
 64 participating parties, including a process to attempt to resolve any difference
 65 in viewpoint.

66 **2-154. Public data set availability.**

67 (a) An agency must make a public data set available on a single web
 68 portal on the Internet within 1 year after this Article takes effect. If an
 69 agency cannot make a public data set available, the agency must
 70 report to Executive and Council:

- 71 (1) which public data set it is unable to make available;
 72 (2) the reasons why the agency cannot make the public data set
 73 available; and
 74 (3) the date by which the agency expects the public data set to be
 75 available on the single web portal.

76 (b) Any public data set that an agency makes available on the Internet
 77 must be accessible through a single web portal that is linked to
 78 www.montgomerycountymd.gov or any successor website maintained
 79 by, or on behalf of, the County.

- 80 (c) A public data set must be made available as specified in technical
81 standards identified by Method 2 regulation.
- 82 (d) A public data set must be in a format that permits automated
83 processing and must make use of appropriate technology to notify the
84 public of all updates.
- 85 (e) A public data set must be updated as often as is necessary to preserve
86 the integrity and usefulness of the data set to the extent that the
87 agency regularly maintains or updates the public data set.
- 88 (f) A public data set must be made available without any registration or
89 license requirement or restriction on use. However, the Department
90 may require a third party providing to the public any public data set,
91 or application utilizing that data set, to explicitly identify the source
92 and version of the public data set and describe any modification made
93 to that data set. In this Section, registration or license requirement or
94 restriction does not include any measure required to:
- 95 (1) assure access to a public data set;
96 (2) protect the single web site housing a public data set from
97 unlawful abuse or an attempt to damage or impair use of the
98 web site; or
99 (3) analyze the type of data being used to improve service delivery.
- 100 (g) A public data set must be accessible to external search capabilities.
- 101 (h) Nothing in this Article prohibits an agency from: (1) voluntarily
102 disclosing information not otherwise defined as data; or (2) making
103 voluntarily disclosed information accessible through the single web
104 portal.
- 105 (i) After a public data set has been available on the web portal for 6
106 months, an agency must not change or terminate collection of data or

107 remove the data set from public access without the approval of the
 108 Chief Administrative Officer or the Chief Administrative Officer's
 109 designee.

110 (j) The Chief Administrative Officer must assign appropriate staff to
 111 manage the public data sets.

112 **2-155. Web portal administration.**

113 (a) The Department may take reasonable measures to maintain bandwidth
 114 availability of the web portal.

115 (b) The Department must conspicuously publish the open data legal
 116 policy in Section 2-156 on the web portal.

117 (c) The Department must implement an on-line forum to solicit public
 118 feedback and encourage public discussion on open data policies and
 119 public data set availability on the web portal.

120 (d) An agency must consider any request that it receives through the on-
 121 line forum to include a particular public data set when making any
 122 determination as to priority for public data set inclusion on the single
 123 web portal.

124 **2-156. Open data legal policy.**

125 (a) A public data set made available on the web portal is provided for
 126 informational purposes. The County does not warranty the
 127 completeness, accuracy, content, or fitness for any particular purpose
 128 or use of any public data set made available on the web portal, and no
 129 warranty is implied with respect to any public data set on the web
 130 portal.

131 (b) The County is not liable for any deficiency in the completeness,
 132 accuracy, content, or fitness for any particular purpose or use of any

133 public data set, or application utilizing the data set, provided by any
134 third party.

- 135 (c) This Article does not create a private right of action to enforce its
136 provisions. Failure to comply with this Article must not result in
137 liability to an agency.

138 **2-157. Internet data set policy and technical standards.**

- 139 (a) Within 180 days after this Article takes effect, the Department must
140 prepare and publish a technical standards manual for the publishing of
141 a public data set in raw or unprocessed form through a single web
142 portal by an agency to make public data available to the greatest
143 number of users and for the greatest number of applications. The
144 manual:

- 145 (1) must use open standards for web publishing and e-government,
146 whenever practicable;
147 (2) must identify the reason why each technical standard was
148 selected and to which types of data it applies;
149 (3) may recommend or require that data be published in more than
150 one technical standard; and
151 (4) must include a plan to adopt or utilize a web application
152 programming interface that permits application programs to
153 request and receive public data sets directly from the web
154 portal.

- 155 (b) The Department must update the manual as necessary.

- 156 (c) The Department must consult with appropriate voluntary consensus
157 standards bodies and, when participation is feasible, in the public
158 interest, and is compatible with agency and departmental missions,

159 authorities, and priorities, participate with such bodies in the
 160 development of technical and open standards.

161 **2-158. Agency Compliance Plan.**

162 (a) Within 18 months after this Article takes effect, the Department must
 163 submit a Compliance Plan to the Executive and Council and must
 164 make the Plan available to the public on the web portal. Each agency
 165 must cooperate with the Department in its preparation of the Plan.

166 The Plan must:

167 (1) include a summary description of a public data set under the
 168 control of each agency on or after this Article takes effect;

169 (2) prioritize the public data sets for inclusion on the single web
 170 portal on or before December 31, 2018, under the standards
 171 adopted by the Department under Section 2-157; and

172 (3) create a timeline for their inclusion on the single web portal

173 (b) If a public data set cannot be made available on the single web portal
 174 on or before December 31, 2018, the Plan must state the reason why
 175 the set cannot be made available, and, to the extent practicable, the
 176 date by which the agency believes that it will be available on the
 177 single web portal.

178 (c) To prioritize public data sets, an agency must consider whether
 179 information embodied in the public data set:

180 (1) can be used to increase agency accountability and
 181 responsiveness;

182 (2) improves public knowledge of the agency and its operations;

183 (3) further the mission of the agency;

184 (4) creates economic opportunity; or

185 (5) responds to a need or demand identified by public consultation.

186 (d) No later than July 15, 2014, and every July 15 thereafter, the
 187 Department must submit, and post on the web portal, an update of the
 188 Compliance Plan to the Executive and Council until all public data
 189 sets have been made available through a single web portal as required
 190 by this Article. The update must include:

- 191 (1) the specific measures taken to make a public data set available
 192 on the single web portal since the previous update;
 193 (2) any specific measure that will be taken before the next update;
 194 (3) an update to the list of public data sets, if necessary;
 195 (4) any change to the prioritization of public data sets; and
 196 (5) an update to the timeline for the inclusion of a public data set
 197 on the single web portal, if necessary.

198 (e) If a public data set cannot be made available on the single web portal
 199 on or before December 31, 2018, the update must explain why it
 200 cannot and, to the extent practicable, specify the date by which the
 201 agency believes that the public data set will be available on the single
 202 web portal.

203 **2-158. Public Information Act Responses.**

204 (a) Definitions. In this Section, the following words and phrases have the
 205 following meanings:

206 County means Montgomery County and includes any Executive or
 207 Legislative Branch department or office.

208 Information request means a request for documents submitted to the
 209 County under the Maryland Public Information Act.

210 (b) The Chief Administrative Officer must make available on the web
 211 portal each information request submitted to the County under the

212 Maryland Public Information Act and the County's response to that
213 request.

214 (c) Except as provided in subsection (d), the web portal must include:

215 (1) each information request submitted to the County;

216 (2) the date when the County received the information request;

217 (3) the status of the information request;

218 (4) if the information request was not answered within 30 days after
219 the County received it, the reason for the delay; and

220 (5) the final response to the information request.

221 (d) The Chief Administrator must not include on the web portal any
222 electronic mail address, home address, or telephone number of any
223 individual who submitted a responsive document.

224 (e) The Chief Administrative Officer must report quarterly to the Council
225 on the Executive Branch's compliance with the Maryland Public
226 Information Act. The report must cite the statutory exception that
227 supports each denial or partial denial of an information request.

228 *Approved:*

229 _____
Roger Berliner, President, County Council Date

230 *Approved:*

231 _____
Isiah Leggett, County Executive Date

232 *This is a correct copy of Council action.*

233 _____
Linda M. Lauer, Clerk of the Council Date